

The Gazette of India



EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY

No. 61] NEW DELHI, MONDAY, OCTOBER 22, 1956

MINISTRY OF LAW

New Delhi, the 22nd October, 1956

THE ADMINISTRATION OF EVACUEE PROPERTY (AMENDMENT) ORDINANCE, 1956

No. 6 OF 1956

Promulgated by the President in the Seventh Year of the
Republic of India.

An Ordinance further to amend the Administration of Evacuee
Property Act, 1950.

WHEREAS Parliament is not in session and the President is satisfied
that circumstances exist which render it necessary for him to take
immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause
(1) of article 123 of the Constitution, the President is pleased to
promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Administration of Evacuee Property (Amendment) Ordinance, 1956. Short title
and com-
mencement.
(2) It shall come into force at once.

2. During the period of operation of this Ordinance the Administration of Evacuee Property Act, 1950 (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 to 14. Act 31 of
1950 to be
temporarily
amended.
- 31 of 1950.

Amendment
of section 60

3. In section 6 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The Central Government may, by notification in the Official Gazette, appoint for any State a Custodian and as many Additional, Deputy or Assistant Custodians of Evacuee Property as may be necessary for the purpose of discharging the duties imposed on the Custodian by or under this Act, and the same person may be appointed as the Custodian, or as the case may be, Additional, Deputy or Assistant Custodian of Evacuee Property for two or more States.”;

(b) in sub-section (3),—

(i) for the words “State Government”, the words “Central Government” shall be substituted;

(ii) the following proviso shall be inserted at the end, namely:—

“Provided that nothing in this sub-section shall be deemed to empower the Custodian to question any order made by an Additional, Deputy or Assistant Custodian in respect of any matter which the Additional, Deputy or Assistant Custodian is empowered by or under this Act to determine”.

Amendment
of sections 8,
15, 38 and
51.

4. In sub-section (3) of section 8, sub-section (3) of section 15, section 38 and sub-section (1) of section 51, of the principal Act, for the words “State Government”, wherever they occur, the words “Central Government” shall be substituted.

Amendment
of section 10.

5. In section 10 of the principal Act, in sub-section (2),—

(a) clauses (f), (g), (h), (k) and (p) and the proviso to clause (q) shall be omitted;

(b) in clause (m), the words “or of any amounts due to any employee of the evacuee or of any debt due by the evacuee to any person” shall be omitted.

Amendment
of section 11.

6. In section 11, of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Where any evacuee property which has vested in the Custodian is property in trust for a public purpose of a religious or charitable nature, it shall be lawful for the Central Government, notwithstanding anything contained in the instrument of

trust or any law for the time being in force, to appoint, by general or special order, new trustees in place of the evacuee trustees and the property shall remain vested in the Custodian only until such time as the new trustees are so appointed; and pending the appointment of such new trustees the trust property and the income thereof shall be applied by the Custodian for fulfilling, as far as possible, the purpose of the trust."

7. In section 16 of the principal Act,—

Amendment
of section 16

(a) for sub-sections (1), (2) and (2A), the following sub-sections shall be substituted, namely:—

"(1) Subject to such rules as may be made in this behalf, any evacuee or any person claiming to be an heir of an evacuee may apply to the Central Government or to any person authorised by the Central Government in this behalf (hereinafter in this section referred to as the 'authorised person') that any evacuee property which has vested in the Custodian and to which the applicant would have been entitled if this Act were not in force, may be restored to him.

(2) On receipt of an application under sub-section (1), the Central Government or the authorised person, as the case may be, shall cause public notice thereof to be given in the prescribed manner, and after causing an inquiry into the claim to be held in such manner as may be prescribed, shall—

(a) if satisfied—

(i) that the conditions prescribed by rules made in this behalf have been satisfied;

(ii) that the evacuee property is the property of the applicant; and

(iii) that it is just or proper that the evacuee property should be restored to him;

make an order restoring the property to the applicant, or

(b) if not so satisfied, reject the application:

Provided that where the application is rejected on the ground that the evacuee property is not the property of the applicant, the rejection of the application shall not prejudice the right of the applicant to establish his title to the property in a civil court, or

(c) if there is any doubt with respect to the title of the applicant to the property, refer him to a civil court for the determination of his title:

Provided that no order for the restoration of any evacuee property shall be made under this sub-section unless provision has been made in the prescribed manner for the recovery of any amount due to the Custodian in respect of the property or the management thereof."

Amendment
of section 24.

8. In section 24 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:—

"(1) Any person aggrieved by an order made under section 7, section 40 or section 48 may prefer an appeal—

(a) to the Custodian, where the original order has been passed by a Deputy or Assistant Custodian and the amount or the value of the property which is the subject-matter of the order does not exceed two thousand rupees;

(b) to the Custodian-General, in any other case.

(1A) An appeal shall lie to the Custodian-General from any order made on appeal by the Custodian under clause (a) of sub-section (1), on the ground that the order is contrary to law.

(1B) An appeal under this section shall be made in such manner and within such time as may be prescribed."

Omission of
sections 25,
26, 29, 30, 31,
33, 35, 42 and
55 (2).

9. Sections 25, 26, 29, 30, 31, 33, 35, 42 and sub-section (2) of section 55 of the principal Act shall be omitted.

Amendment
of section 27.

10. In section 27 of the principal Act,—

(a) in sub-section (1), the words "district Judge or" shall be omitted;

(b) sub-sections (1A), (2) and (3) shall be omitted.

Amendment
of section 28.

11. In section 28 of the principal Act, the words "district Judge" shall be omitted.

Amendment
of section 40.

12. In section 40 of the principal Act,—

(a) in sub-section (2), in clause (b), the words "or does not leave" shall be omitted;

(b) sub-section (8) shall be omitted.

13. For section 48 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new sec-
tion for sec-
tion 48.

“48 (1) Any sum payable to the Government or to the Custodian in respect of any evacuee property, under any agreement, express or implied, lease or other document or otherwise howsoever, may be recovered in the same manner as an arrear of land revenue.

Recovery of
certain sums
as arrears of
land revenue.

(2) If any question arises whether a sum is payable to the Government or to the Custodian within the meaning of sub-section (1), the Custodian shall, after making such inquiry as he may deem fit, and giving to the person by whom the sum is alleged to be payable an opportunity of being heard, decide the question; and the decision of the Custodian shall, subject to any appeal or revision under this Act, be final and shall not be called in question by any court or other authority.

(3) For the purposes of this section, a sum shall be deemed to be payable to the Custodian, notwithstanding that its recovery is barred by the Indian Limitation Act, 1908, or any other law for the time being in force relating to limitation of actions.”

9 of 1908.

14. In section 56 of the principal Act, in sub-section (2),—

Amendment
of section 56.

(a) sub-clause (o) shall be omitted;

(b) for sub-clause (s), the following sub-clauses shall be substituted, namely:—

“(s) the terms and conditions of service of the Custodian and other officers appointed under this Act and for the furnishing of security by them;

(t) the work to be performed by the Custodian, and the Additional, Deputy or Assistant Custodians;

(u) the delegation of powers of the Custodian to the Additional, Deputy or Assistant Custodians;

(v) the fees payable to the Custodian for the management and disposal of any property vested in him and the manner in which such fees shall be paid;

(w) the persons by whom and the time at which books of accounts maintained under this Act may be inspected and audited;

(x) any other matter which has to be or may be prescribed under this Act.”;

(c) sub-section (3) shall be omitted.

Certain appointments, orders and rules to continue in force.

15. Any appointment or order made under section 6, and any rule made under sub-section (3) of section 56 of the principal Act before the commencement of this Ordinance which is in force at such commencement shall be deemed to have been made by the Central Government and shall continue in force accordingly until and unless it is superseded by any appointment, order or rule made under section 6, or, as the case may be, section 56 of the principal Act, as amended by this Ordinance.

Provision of section 18 to apply in respect of all appeals.

16. The provisions of sub-section (1) of section 24 of the principal Act, as substituted by section 8 of this Ordinance, shall apply to all appeals instituted after the commencement of this Ordinance.

RAJENDRA PRASAD,
President.

THE DISPLACED PERSONS (COMPENSATION AND REHABILITATION) AMENDMENT ORDINANCE, 1956

No. 7 OF 1956

Promulgated by the President in the Seventh Year of the Republic of India.

An Ordinance to amend the Displaced Persons (Compensation and Rehabilitation) Act, 1954.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and commencement.

1. (1) This Ordinance may be called the Displaced Persons (Compensation and Rehabilitation) Amendment Ordinance, 1956.

(2) It shall come into force at once.

Act 44 of 1954 to be temporarily amended.

2. During the period of operation of this Ordinance, the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 to 8.

3. In section 2 of the principal Act,—

Amendment
of section 2,

(i) in clause (d), in sub-clause (iii), for the words 'by the Central Government or a State Government of any property or any interest therein;', the following shall be substituted, namely:—

“of any property or interest therein by—

(a) the Central Government; or

(b) any State Government; or

(c) any body corporate or other authority or person financed by the Central Government or a State Government for the purpose of the acquisition, development or construction of any immovable property for the rehabilitation of displaced persons;”;

(ii) in clause (e), for the words 'but does not include', the following shall be substituted, namely:—

“and includes any claim registered on or before the 31st day of May, 1953, under the East Punjab Refugees (Registration of Claims) Act, 1948, or under the Patiala Refugees (Registration of Land Claims) Ordinance, 2004, and verified by any authority appointed for the purpose by the Government of Punjab, the Government of Patiala or the Government of Patiala and East Punjab States Union, as the case may be, which has not been satisfied wholly or partially by the allotment of any evacuee land under the relevant notification specified in section 10 of this Act, but does not include—”.

East Punjab
Act XII of
1948.
Ord. 10 of
2004 BK.

4. In section 11 of the principal Act, sub-section (2) shall be omitted.

Amendment
of section 11.

5. In section 19 of the principal Act, in sub-section (2), after the words 'acquired under this Act', the following words shall be inserted, namely:—

Amendment
of section 19.

“or where any person is otherwise in unauthorised possession of any such property or any other immovable property forming part of the compensation pool—”.

6. In section 20 of the principal Act, in clause (d) of sub-section (1), after the words 'to a displaced person', the following words shall be inserted, namely:—

Amendment
of section 20

“or any association of displaced persons, whether incorporated or not, or to any other person”.

Insertion of
new section
20A.

Utilisation of
compensation pool in
connection
with restoration of eva-
cued property in certain
cases.

7. (1) After section 20 of the principal Act, the following section shall be inserted, namely:—

“20A. (1) Where any evacuee or his heir has made an application under section 16 of the Evacuee Property Act and the Central Government is of opinion that it is not expedient or practicable to restore the whole or any part of such property to the applicant by reason of the property or part thereof being in occupation of a displaced person or otherwise, then, notwithstanding anything contained in the Evacuee Property Act and this Act, it shall be lawful for the Central Government—

(a) to transfer to the applicant in lieu of the evacuee property or any part thereof, any immovable property in the compensation pool or any part thereof, being in the opinion of the Central Government as nearly as may be of the same value as the evacuee property or, as the case may be, any part thereof, or

(b) to pay to the applicant such amount in cash from the compensation pool in lieu of the evacuee property or part thereof, as the Central Government having regard to the value of the evacuee property or part thereof, may, in the circumstances deem fit.

Explanation.—The provisions of this sub-section shall apply, whether or not, a certificate for the restoration of the evacuee property has been issued to the applicant under sub-section (1) of section 16 of the Evacuee Property Act, as in force before the commencement of the Administration of Evacuee Property (Amendment) Ordinance, 1956, if the evacuee property has not in fact been restored to the applicant

(2) Where in pursuance of sub-section (1) any evacuee or his heir has been granted any immovable property from the compensation pool or has been paid any amount in cash from the compensation pool, his application under section 16 of the Evacuee Property Act for the restoration of the evacuee property shall be deemed to have been disposed of, and his right, title and interest in such evacuee property shall be deemed to have been extinguished but such extinguishment shall not affect the power of the Central Government to acquire the evacuee property under section 12 of this Act.

(3) In this section—

(a) ‘Evacuee Property Act’ means the Administration of Evacuee Property Act, 1950;

(b) the expressions 'evacuee' and 'evacuee property' have respectively the same meanings as in the Evacuee Property Act."

8. For section 21 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new
section for
section 21.

"21. (1) Any sum payable to the Government or to the Custodian in respect of any evacuee property, under any agreement, express or implied, lease or other document or otherwise howsoever, for any period prior to the date of acquisition of such property under this Act, which has not been recovered under section 48 of the Administration of Evacuee Property Act, 1950, and any sum payable to the Government in respect of any property in the compensation pool, may be recovered in the same manner as an arrear of land revenue.

Recovery of
certain sum
as arrears of
land revenue.

31 of 1950.

(2) If any question arises whether a sum is payable to the Government or to the Custodian within the meaning of subsection (1) in respect of any property referred to therein, it shall be referred to the Settlement Commissioner within whose jurisdiction the property is situated, and the Settlement Commissioner shall, after making such inquiry as he may deem fit and giving to the person by whom the sum is alleged to be payable an opportunity of being heard, decide the question; and the decision of the Settlement Commissioner shall, subject to any appeal or revision under this Act, be final, and shall not be called in question by any court or other authority.

(3) For the purposes of this section, a sum shall be deemed to be payable to the Custodian, notwithstanding that its recovery is barred by the Indian Limitation Act, 1908, or any other law for the time being in force, relating to limitation of actions."

9 of 1908.

RAJENDRA PRASAD,

President.

K. V. K. SUNDARAM,

Secy. to the Govt. of India.